

Senate Daily Reader

Thursday, February 17, 2000

Bills Included				
HB 1002	HB 1073	HB 1100	HB 1133	HB 1134
HB 1137	HB 1156	HB 1197	HB 1200	HB 1212
HB 1213	HB 1237	HB 1261	HB 1280	HB 1282
SB 59	SB 97			

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

995D0027

HOUSE ENGROSSED NO. **HB1002** - 2/9/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Michels, Davis, Diedrich (Larry), Fiegen, and Fischer-Clemens
and Senators Olson, Albers, Brown (Arnold), Lawler, and Rounds at the
request of the Interim Retirement Laws Committee

1 FOR AN ACT ENTITLED, An Act to require an independent actuarial review of equity issues
2 regarding the South Dakota Retirement System and to declare an emergency.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. An independent actuarial review shall be completed of the South Dakota
5 Retirement System, focusing upon issues of equity regarding member benefits, including, but not
6 limited to, the class A alternate formula, class differences, length of service issues, purchase of
7 credited service, cost of living allowance, death and disability benefits, married members,
8 members with younger spouses, life expectancy, early retirement, and reemployment after
9 retirement.

10 Section 2. The Retirement Laws Committee shall submit a request for proposals, and shall
11 designate an approved actuary to carry out the study no later than July 1, 2000. The approved
12 actuary shall report its findings to the Retirement Laws Committee no later than December 1,
13 2000.

14 Section 3. This independent actuarial review shall be paid for out of the South Dakota
15 retirement system fund. Expenditures shall be disbursed on warrants drawn by the state auditor

1 and shall be supported by vouchers approved by the administrator of the system.

2 Section 4. Whereas, this Act is necessary for the support of the state government and its
3 existing public institutions, an emergency is hereby declared to exist, and this Act shall be in full
4 force and effect from and after its passage and approval.

1 **BILL HISTORY**

2 1/11/00 First read in House and referred to committee assignment waived. H.J. 12

3 1/14/00 Referred to Retirement Laws. H.J. 48

4 1/27/00 Scheduled for Committee hearing on this date.

5 1/27/00 Deferred by Chair.

6 2/3/00 Scheduled for Committee hearing on this date.

7 2/3/00 Retirement Laws Do Pass Amended, Passed, AYES 5, NAYS 0. H.J. 411

8 2/4/00 Retirement Laws Hog Housed.

9 2/8/00 House of Representatives Do Pass Amended, Passed, AYES 62, NAYS 4. H.J. 506

10 2/8/00 House of Representatives Title Amended Passed. H.J. 507

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

555D0501

HOUSE STATE AFFAIRS COMMITTEE ENGROSSED NO. **HB1073** - 2/9/00

Introduced by: Representatives Young, Apa, and Chicoine and Senators Dunn (Jim) and Olson

1 FOR AN ACT ENTITLED, An Act to permit assessments based on benefits.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 9-45-32 be amended to read as follows:

4 9-45-32. In lieu of the method of apportionment prescribed in §§ 9-45-30 and 9-45-31, it
5 may be provided in and by the resolution determining the necessity of any street improvement
6 that the cost ~~thereof~~ shall be assessed against ~~all assessable lots and tracts~~ each lot and tract of
7 ~~land fronting or abutting thereon or lying within one-half block or three hundred feet thereof,~~
8 ~~whichever is less,~~ according to the benefits determined by the governing body to accrue to each
9 ~~of such lots and tracts~~ lot and tract from the construction of the improvement. ~~In such event the~~
10 The governing body, in preparing, considering, and hearing objections to the assessment roll as
11 provided in chapter 9-43, shall make such an investigation as may be necessary and shall find and
12 determine the amount in which each such lot and tract will be especially is specifically benefited
13 by the construction of the improvement, and shall assess against each such lot and tract such the
14 amount, not exceeding said the benefit as shall be necessary to pay its just portion of the total
15 cost of the work to be assessed. No payment may be made by the state on any assessment against
16 state property except in accordance with § 5-14-19.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to State Affairs. H.J. 54

3 2/9/00 Scheduled for Committee hearing on this date.

4 2/9/00 State Affairs Do Pass Amended, Passed, AYES 13, NAYS 0.

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

643D0453

HOUSE ENGROSSED NO. **HB1100** - 1/27/00

Introduced by: Representatives Michels, Brown (Jarvis), Fischer-Clemens, Hunt, Koehn, McIntyre, Slaughter, Wilson, and Young and Senators Everist, Daugaard, Dunn (Rebecca), Flowers, and Moore

1 FOR AN ACT ENTITLED, An Act to allow certain nurses and physician's assistants to form
2 limited liability partnerships and limited liability companies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 48-7-111 be amended to read as follows:

5 48-7-111. Any person registered, certified, or licensed pursuant to chapter 16-16, 36-4, 36-
6 4A, 36-5, 36-6A, 36-7, 36-8, 36-9, 36-9A, 36-10, 36-12, or 36-20A may practice in a limited
7 liability partnership.

8 Section 2. That § 47-11E-1 be amended to read as follows:

9 47-11E-1. One or more registered nurses, licensed practical nurses, certified registered nurse
10 anesthetists, or clinical nurse specialists licensed pursuant to chapter 36-9 or nurse ~~practitioner~~
11 practitioners or nurse ~~midwife~~ midwives licensed pursuant to chapter 36-9A may form a
12 professional service ~~corporations~~ corporation for the practice of nursing under the South Dakota
13 Business Corporation Act. The articles of incorporation of ~~such corporations~~ the corporation
14 shall contain provisions complying with the requirements of §§ 47-11E-1 to 47-11E-19,
15 inclusive.

16 Registered nurses, licensed practical nurses, certified registered nurse anesthetists, or clinical

nurse specialists licensed pursuant to chapter 36-9 or nurse practitioners or nurse midwives licensed pursuant to chapter 36-9A may form a professional limited liability company under the South Dakota Limited Liability Company Act if the limited liability company is organized and operated in accordance with the provisions of this chapter. The articles of organization of the limited liability company shall contain provisions complying with the requirements of §§ 47-11E-1 to 47-11E-19, inclusive.

Section 3. That chapter 47-11E be amended by adding thereto a NEW SECTION to read as follows:

Terms used in this chapter shall also include the following terms:

- (1) "Articles of incorporation," the articles of organization of a limited liability company;
- (2) "Corporation," both corporations under the South Dakota Business Corporations Act and limited liability companies under the South Dakota Limited Liability Company Act;
- (3) "Director" or "officer," any manager of a limited liability company or the members of a limited liability company that does not have managers;
- (4) "Incorporation," the members of a limited liability company;
- (5) "Shareholders," the members of a limited liability company;
- (6) "Shares" or "stock," membership interests in a limited liability company.

Section 4. That § 47-11E-4 be amended to read as follows:

47-11E-4. The name of a corporation formed pursuant to § 47-11E-1 shall contain the words, "professional company" or "professional corporation" or abbreviations thereof, such as "Prof. Co.," or "Prof. Corp." or "P.C." The name of a limited liability company formed under § 47-11E-1 shall contain the words, professional limited liability company, or the abbreviation, Prof. L.L.C. The name of the corporation or limited liability company shall always meet the ethical standards established for the names of nursing firms by the canons of professional ethics

of the South Dakota Board of Nursing as if all of the stockholders of the corporation were partners.

Section 5. That § 47-11D-1 be amended to read as follows:

47-11D-1. One or more physician assistants may form a professional corporation for practicing as physician's assistants under the South Dakota Business Corporation Act, if such corporations are organized and operated in accordance with the provisions of this chapter.

Physician's assistants may form a professional limited liability company under the South Dakota Limited Liability Company Act if the limited liability company is organized and operated in accordance with the provisions of this chapter. The articles of organization of the limited liability company shall contain provisions complying with the requirements of this chapter.

Section 6. That chapter 47-11D be amended by adding thereto a NEW SECTION to read as follows:

Terms used in this chapter shall also include the following terms:

- (1) "Articles of incorporation," the articles of organization of a limited liability company;
- (2) "Corporation," both corporations under the South Dakota Business Corporations Act and limited liability companies under the South Dakota Limited Liability Company Act;
- (3) "Director" or "officer," any manager of a limited liability company or the members of a limited liability company that does not have managers;
- (4) "Incorporation," the members of a limited liability company;
- (5) "Shareholders," the members of a limited liability company;
- (6) "Shares" or "stock," membership interests in a limited liability company.

Section 7. That § 47-11D-2 be amended to read as follows:

47-11D-2. The ~~corporate~~ name of a corporation shall contain the words, "professional company" or "professional corporation", or abbreviations thereof, such as "Prof. Co.," "Prof.

- 1 Corp., "P.C.", or "Prof. Ltd." The name of a limited liability company formed under § 47-11D-1
- 2 shall contain the words, professional limited liability company, or the abbreviation, Prof. L.L.C.

1 **BILL HISTORY**

2 1/15/00 First read in House and referred to committee assignment waived. H.J. 60

3 1/18/00 Referred to Judiciary. H.J. 120

4 1/21/00 Scheduled for Committee hearing on this date.

5 1/21/00 Judiciary Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 189

6 1/26/00 House of Representatives Do Pass Amended, Passed, AYES 65, NAYS 2. H.J. 253

7 1/26/00 House of Representatives Title Amended Passed. H.J. 254

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

391D0364

SENATE COMMERCE COMMITTEE ENGROSSED NO. **HB1133** - 2/16/00

Introduced by: Representatives Roe, Cutler, Eccarius, Fischer-Clemens, Koehn, Michels, and Peterson and Senators Everist, Brown (Arnold), Dunn (Jim), Flowers, Madden, Munson (David), and Shoener

1 FOR AN ACT ENTITLED, An Act to provide insurance coverage for off-label uses of
2 prescription drugs used for the treatment of cancer or life threatening conditions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. Terms used in this Act mean:

5 (1) "FDA," the federal Food and Drug Administration;

6 (2) "Health insurer," any person who provides health insurance in this state. The term
7 includes a licensed insurance company, a prepaid hospital or medical service plan, a
8 health maintenance organization, a multiple employer welfare arrangement, or any
9 person providing a plan of health insurance subject to state insurance regulation;

10 (3) "Life threatening," either or both of the following:

11 (a) A disease or condition where the likelihood of death is high, unless the course
12 of the disease is interrupted; or

13 (b) A disease or condition with potentially fatal outcomes where the end point of
14 clinical intervention is survival;

15 (4) "Medical literature," a published scientific study in a journal or other publication in

1 which original manuscripts have been published only after critical review for scientific
2 accuracy, validity, and reliability by unbiased independent experts and a determination
3 by the International Committee of Medical Journal Editors that it meets the Uniform
4 Requirements for Manuscripts submitted to biomedical journals. The term, medical
5 literature, does not include a publication or a supplement to a publication that is
6 sponsored to a significant extent by a pharmaceutical manufacturing company or
7 health carrier;

8 (5) "Standard reference compendia," one of the following:

9 (a) The United States Pharmacopeia Drug Information;

10 (b) DRUGDEX; or

11 (c) The American Hospital Formulary Service Drug Information;

12 (6) "Off-label," the use of an FDA approved drug for an indication that is not included in
13 the approved labeling;

14 (7) "Drug," any substance prescribed by a licensed health care provider acting within the
15 scope of the provider's license and that is intended for use in the diagnosis, mitigation,
16 treatment, or prevention of disease and is taken by mouth; injected into a muscle, the
17 skin, a blood vessel, or cavity of the body; applied to the skin; or otherwise
18 assimilated by the body. The term, drug, includes only those substances that are
19 approved by the FDA for at least one indication.

20 Section 2. No health insurer issuing a policy which provides coverage for prescription drugs
21 may exclude coverage of any drug used for the treatment of cancer or life threatening conditions
22 on the grounds that the drug has not been approved by the FDA for that indication if that drug
23 is recognized for treatment of such indication in one of the standard reference compendia or in
24 the medical literature. The prescribing physician shall submit documentation supporting the
25 proposed off-label use or uses to the insurer, if requested. Any coverage of a drug that serves

as the primary treatment required by this Act shall also include medically necessary services associated with the administration of the drug.

Section 3. No coverage is required under this Act for the following:

- (1) Any drug that has not been fully licensed or approved by the FDA;
- (2) The use of any drug if the FDA has determined that use to be contraindicated; or
- (3) Any experimental drug not otherwise approved for any indication by the FDA.

Section 4. The provisions of this Act apply to drugs used in the treatment for cancer or life threatening diseases only, and nothing in this Act may be construed to create, impair, alter, limit, modify, enlarge, abrogate, or prohibit reimbursement for medications used in the treatment of any other disease or condition.

Section 5. Nothing in this Act may be construed to prevent the application of contractual deductibles or copayment provisions or managed care review.

Section 6. The following drugs or services are not subject to coverage under section 2 of this Act:

- (1) Any drug that is used in research trials sponsored by the manufacturer of that drug or a governmental entity; or
- (2) Any drug or service furnished in a research trial, if the sponsor of the research trial furnishes the drug or service without charge to any participant in the research trial.

Section 7. This Act may not be used to reduce or limit coverage for off-label use of drugs otherwise required by law or contract.

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Commerce. H.J. 118

3 2/1/00 Scheduled for Committee hearing on this date.

4 2/1/00 Commerce Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 342

5 2/3/00 House of Representatives Deferred to another day. H.J. 401

6 2/4/00 House of Representatives Deferred to another day. H.J. 433

7 2/7/00 House of Representatives Do Pass Amended, Passed, AYES 58, NAYS 7. H.J. 444

8 2/8/00 First read in Senate and referred to Commerce. S.J. 359

9 2/15/00 Scheduled for Committee hearing on this date.

10 2/15/00 Commerce Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 493

11 2/15/00 Commerce Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

681D0182

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1134** - 2/4/00

Introduced by: Representatives Broderick, Chicoine, Cutler, and Wilson and Senators Albers, Everist and Reedy

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding the issuance of on-sale
2 alcoholic beverage licenses within improvement districts.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. A county may issue on-sale licenses pursuant to subdivision 35-4-2(6) to be
5 operated only within an improvement district, created pursuant to chapter 7-25A, within the
6 county. The number of licenses issued in the improvement district may not exceed three for the
7 first one thousand of population and may not exceed one for each additional fifteen hundred of
8 population or fraction thereof, including any licenses issued in the improvement district prior to
9 July 1, 2000.

10 Section 2. That § 35-4-11.1 be amended to read as follows:

11 35-4-11.1. If not previously fixed by ordinance or continuing resolution, the board of county
12 commissioners shall on or before the first of September in each year determine the number of
13 on-sale licenses it will approve for the ensuing calendar year and the fees to be charged for the
14 various classifications of licenses. The number of licenses issued may not exceed three for the
15 first one thousand of population and may not exceed one for each additional fifteen hundred of
16 population or fraction thereof, the population to include only those residing within the county

1 but outside the incorporated municipalities and improvement districts, created pursuant to
2 chapter 7-25A, within the county. However, any license issued in an improvement district prior
3 to July 1, 2000, shall be included when calculating the total number of licenses that may be issued
4 by the county where the improvement district is located. No licensee regularly licensed to do
5 business on July 1, 1981, may be denied reissuance of ~~his~~ a license in subsequent years solely by
6 reason of any limitations, based upon population quotas, of the number of licenses authorized
7 or established under the provisions of this title. Licenses issued to concessionaires, and lessees
8 of the State of South Dakota, within the boundaries of state parks, prior to January 1, 1983, may
9 be subtracted when calculating the total number of licenses permitted in this section. The quotas
10 established in this section do not apply to licenses issued pursuant to subdivisions 35-4-2(16) and
11 (17).

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Local Government. H.J. 118

3 1/23/00 Scheduled for Committee hearing on this date.

4 1/25/00 Scheduled for Committee hearing on this date.

5 1/25/00 Local Government Do Pass, Failed, AYES 5, NAYS 7.

6 1/25/00 Deferred to 36th legislative day, AYES 7, NAYS 5. H.J. 229

7 2/3/00 Local Government Reconsidered, AYES 11, NAYS 2.

8 2/3/00 Local Government Do Pass Amended, Passed, AYES 11, NAYS 2. H.J. 405

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

349D0539

HOUSE JUDICIARY COMMITTEE ENGROSSED NO. **HB1137** - 1/27/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Konold, Brooks, Davis, Diedtrich (Elmer), Earley, Engbrecht, Fischer-Clemens, Hennies, McNenny, Michels, Munson (Donald), Sebert, Smidt, Sutton (Daniel), Sutton (Duane), Volesky, and Wilson and Senators Rounds, Benson, Bogue, Brosz, Duxbury, Everist, Ham, Madden, Olson, and Shoener

1 FOR AN ACT ENTITLED, An Act to exempt real estate licensees from certain sex offender
2 notification provisions.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 36-21A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 No licensee representing a seller or landlord has a duty to investigate, volunteer, or disclose
7 information regarding a registered sex offender residing on or near the property.

8 Section 2. That chapter 36-21A be amended by adding thereto a NEW SECTION to read
9 as follows:

10 No licensee representing a buyer or tenant has a duty to investigate or volunteer information
11 regarding a registered sex offender residing on or near the property. However, upon inquiry by
12 the licensee's client, the licensee representing a buyer or tenant shall disclose to the client any
13 actual knowledge that the licensee may have regarding a registered sex offender residing on or
14 near the property.

1 **BILL HISTORY**

2 1/18/00 First read in House and referred to Judiciary. H.J. 119

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/24/00 Judiciary Deferred to another day.

5 1/26/00 Judiciary Hog Housed.

6 1/26/00 Judiciary Do Pass Amended, Passed, AYES 11, NAYS 1. H.J. 252

7 1/26/00 Scheduled for Committee hearing on this date.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

995D0438

SENATE RETIREMENT LAWS COMMITTEE

ENGROSSED NO. **HB1156** - 2/16/00

Introduced by: Representatives Michels, Davis, Diedrich (Larry), Fiegen, and Fischer-Clemens
and Senators Brown (Arnold), Albers, Lawler, and Olson

1 FOR AN ACT ENTITLED, An Act to repeal certain provisions relating to the deferred
2 compensation fund for public employees and to grant certain authorities to the state
3 investment officer.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

5 Section 1. That § 3-13-51 be repealed.

6 ~~— 3-13-51. Notwithstanding any other provision of law, funds held by the fund may be invested~~
7 ~~in such investments as are deemed appropriate by the board including, but not limited to, annuity~~
8 ~~contracts. At the discretion of the board, such funds may be invested, in whole or in part, by the~~
9 ~~South Dakota investment council.~~

10 Section 2. That chapter 3-13 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Funds held by the fund may be invested by plan participants in such investments as are
13 deemed appropriate by the state investment officer, including, but not limited to, annuity
14 contracts. The state investment officer is authorized to enter into contracts for investment
15 alternatives and to offer internal investment alternatives, and the plan administrator is authorized
16 to transfer funds to, from, and among the respective investment alternatives. The state

1 investment officer shall be held to the standard of conduct of a fiduciary and shall carry out all
2 functions solely in the interests of the participants and benefit recipients and for the exclusive
3 purpose of providing benefits and defraying reasonable expenses incurred in performing such
4 duties as required by law.

5 Section 3. That § 4-5-26 be amended to read as follows:

6 4-5-26. Money made available for investment may be invested in the following classes of
7 securities and investments and, except as provided by § 3-12-117, chapter 3-13, and the South
8 Dakota cement plant retirement fund, not otherwise:

- 9 (1) Direct and indirect obligations of the United States government;
- 10 (2) Agencies and instrumentalities of the United States government;
- 11 (3) Direct obligations of the State of South Dakota and any of its political subdivisions;
- 12 (4) Obligations consisting of notes, bonds, debentures, and certificates which are direct
13 obligations of a solvent corporation or trust existing under the laws of the United
14 States or any state thereof, provided that such investments shall be rated in the four
15 highest classifications established by at least two standard rating services;
- 16 (5) Savings accounts, share accounts, certificates of deposit of banks, savings and loan
17 associations, building and loan associations and bankers' acceptances.

18 Section 4. That chapter 3-13 be amended by adding thereto a NEW SECTION to read as
19 follows:

20 The administrator shall execute any agreements as are necessary to carry out the provisions
21 of this chapter, except such agreements as are executed by the state investment officer pursuant
22 to section 2 of this Act. Any contract for an investment alternative in effect on July 1, 2000, is
23 hereby transferred by operation of law to the state investment officer as of July 1, 2000.

24 Section 5. That chapter 3-13 be amended by adding thereto a NEW SECTION to read as
25 follows:

1 If a contract with a vendor terminates and a participant fails to notify the third-party
2 administrator of the participant's new investment selection before the contract terminates, the
3 third-party administrator shall transfer that participant's account to the investment alternative
4 designated by the state investment officer.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to Retirement Laws. H.J. 133

3 1/27/00 Scheduled for Committee hearing on this date.

4 1/27/00 Retirement Laws Do Pass, Passed, AYES 3, NAYS 2. H.J. 284

5 1/31/00 House of Representatives Deferred to another day. H.J. 318

6 2/1/00 House of Representatives Do Pass, Passed, AYES 49, NAYS 21. H.J. 347

7 2/2/00 First read in Senate and referred to Retirement Laws. S.J. 299

8 2/14/00 Scheduled for Committee hearing on this date.

9 2/14/00 Retirement Laws Do Pass Amended, Passed, AYES 3, NAYS 2. S.J. 493

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

448D0704

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1197** - 2/9/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representative Wilson

1 FOR AN ACT ENTITLED, An Act to exempt mentally retarded persons from the death penalty
2 and to provide for a determination of mental retardation in such cases.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
5 as follows:

6 Notwithstanding any other provision of law, the death penalty may not be imposed upon any
7 person who was mentally retarded at the time of the commission of the offense and whose mental
8 retardation was manifested and documented before the age of eighteen years.

9 Section 2. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
10 as follows:

11 As used in this Act, mental retardation means significant subaverage general intellectual
12 functioning existing concurrently with substantial related deficits in applicable adaptive skill
13 areas. An intelligence quotient exceeding seventy on a reliable standardized measure of
14 intelligence is presumptive evidence that the defendant does not have significant subaverage
15 general intellectual functioning.

16 Section 3. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read

1 as follows:

2 Not later than ninety days prior to the commencement of trial, the defendant may upon a
3 motion alleging reasonable cause to believe the defendant was mentally retarded at the time of
4 the commission of the offense, apply for an order directing that a mental retardation hearing be
5 conducted prior to trial. If, upon review of the defendant's motion and any response thereto, the
6 court finds reasonable cause to believe the defendant was mentally retarded, it shall promptly
7 conduct a hearing without a jury to determine whether the defendant was mentally retarded. If
8 the court finds after the hearing that the defendant was not mentally retarded at the time of the
9 commission of the offense, the court shall, prior to commencement of trial, enter an order so
10 stating, but nothing in this paragraph precludes the defendant from presenting mitigating
11 evidence of mental retardation at the sentencing phase of the trial. If the court finds after the
12 hearing that the defendant established mental retardation by a preponderance of the evidence,
13 the court shall prior to commencement of trial, enter an order so stating. Unless the order is
14 reversed on appeal, a separate sentencing proceeding under this section may not be conducted
15 if the defendant is thereafter convicted of murder in the first degree. If a separate sentencing
16 proceeding is not conducted, the court, upon conviction of a defendant for the crime of murder
17 in the first degree, shall sentence the defendant to life imprisonment without parole.

18 Section 4. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
19 as follows:

20 If the court enters an order pursuant to section 3 of this Act finding that the defendant was
21 mentally retarded at the time of the commission of the offense, the state may appeal as of right
22 from the order. Upon entering such an order, the court shall afford the state a reasonable period
23 of time, which may not be less than ten days, to determine whether to take an appeal from the
24 order finding that the defendant was mentally retarded. The taking of an appeal by the state stays
25 the effectiveness of the court's order and any order fixing a date for trial.

1 Section 5. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
2 as follows:

3 If a defendant serves notice pursuant to section 3 of this Act, the state may make application,
4 upon notice to the defendant, for an order directing that the defendant submit to an examination
5 by a psychiatrist, licensed psychologist, or licensed psychiatric social worker designated by the
6 state's attorney, for the purpose of rebutting evidence offered by the defendant. Counsel for the
7 state and the defendant have the right to be present at the examination. A videotaped recording
8 of the examination shall be made available to the defendant and the state's attorney promptly
9 after its conclusion. The state's attorney shall promptly serve on the defendant a written copy of
10 the findings and evaluation of the examiner. If a defendant is subjected to an examination
11 pursuant to an order issued in accordance with this section, any statement made by the defendant
12 for the purpose of the examination is inadmissible in evidence against the defendant in any
13 criminal action or proceeding on every issue other than that of whether the defendant was
14 mentally retarded at the time of the commission of the offense, but such statement is admissible
15 upon such an issue whether or not it would otherwise be deemed a privileged communication.

16 Section 6. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
17 as follows:

18 The provisions of this Act apply only to offenses alleged to have been committed by the
19 defendant after the effective date of this Act.

20 Section 7. That chapter 23A-27A be amended by adding thereto a NEW SECTION to read
21 as follows:

22 The provisions of this Act are essentially and inseparably connected and interdependent.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 141

3 1/20/00 Referred to State Affairs.

4 1/31/00 Deferred to 36th legislative day, AYES 9, NAYS 4. H.J. 324

5 1/31/00 Scheduled for Committee hearing on this date.

6 2/8/00 State Affairs Reconsidered, AYES 11, NAYS 2.

7 2/8/00 State Affairs Do Pass Amended, Passed, AYES 12, NAYS 1.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

400D0671

SENATE EDUCATION COMMITTEE ENGROSSED NO. **HB1200** - 2/16/00

Introduced by: Representatives Michels, Brown (Richard), Davis, Haley, Hennies, Koetzle, Lockner, Lucas, and Peterson and Senators Albers, Brosz, Brown (Arnold), and Symens

1 FOR AN ACT ENTITLED, An Act to require criminal background checks of school employees
2 and to prohibit employment of certain persons in schools.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Each person hired by a school district shall submit to a criminal background investigation,
7 by means of fingerprint checks by the Division of Criminal Investigation and the Federal Bureau
8 of Investigation. The school district shall submit completed fingerprint cards to the Division of
9 Criminal Investigation before the prospective new employee enters into service. If no
10 disqualifying record is identified at the state level, the fingerprints shall be forwarded by the
11 Division of Criminal Investigation to the Federal Bureau of Investigation for a national criminal
12 history record check. Any person whose employment is subject to the requirements of this
13 section may enter into service on a temporary basis pending receipt of results of the criminal
14 background investigation. The employing school district may, without liability, withdraw its offer
15 of employment or terminate the temporary employment without notice if the report reveals a

1 disqualifying record. Any person whose employment is subject to the requirements of this section
2 shall pay any fees charged for the criminal record check. However, the school board or
3 governing body may reimburse the person for the fees.

4 Section 2. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 A school district may refuse to employ a person, either directly or by contract, who has been
7 convicted of a crime involving moral turpitude as defined in subdivision 22-1-2(25), including
8 traffic in narcotics; a crime of violence as defined in subdivision 22-1-2(9); or a sex offense as
9 defined in § 22-22-30.

10 Section 3. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
11 follows:

12 Any person employed by a South Dakota school district on the effective date of this Act who
13 remains continuously employed by a South Dakota school district for consecutive school years
14 is not required to submit to a criminal background check as provided in section 1 of this Act.

15 Section 4. That chapter 13-10 be amended by adding thereto a NEW SECTION to read as
16 follows:

17 If a school board or governing body of any accredited school suspends an employee or an
18 employee resigns or is terminated as a result of a criminal conviction, the superintendent or chief
19 administrator shall, within ten days of the date of the suspension or the date the employment is
20 severed, report the circumstances and the name of the employee to the Department of Education
21 and Cultural Affairs. Any superintendent or chief administrator who fails to report under this
22 section is subject to sanctions found in § 13-8-48.

23 Section 5. For purposes of this Act, the term, conviction, means a plea or verdict of guilty
24 or a conviction following a plea of nolo contendere in this state or any other state. A duly certified
25 copy of the court record is proof of the conviction and sentence.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 141

3 1/20/00 Referred to Education. H.J. 161

4 2/3/00 Scheduled for Committee hearing on this date.

5 2/3/00 Education Do Pass Amended, Passed, AYES 12, NAYS 0. H.J. 382

6 2/7/00 House of Representatives Deferred to another day. H.J. 468

7 2/9/00 Motion to Amend, Passed. H.J. 537

8 2/9/00 House of Representatives Do Pass Amended, Passed, AYES 63, NAYS 3. H.J. 538

9 2/10/00 First read in Senate and referred to Education. S.J. 427

10 2/15/00 Scheduled for Committee hearing on this date.

11 2/15/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 490

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

248D0565

SENATE TRANSPORTATION COMMITTEE

ENGROSSED NO. **HB1212** - 2/16/00

Introduced by: Representatives Young, Apa, and Napoli

1 FOR AN ACT ENTITLED, An Act to revise certain provisions regarding dealer franchises to
2 include motorcycles, boats, personal watercraft, all-terrain vehicles, and snowmobiles.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 37-5-5 be amended to read as follows:

5 37-5-5. If any person, firm, or corporation, or their successors, engaged in the business of
6 selling and retailing farm implements or machinery and repair parts for farm implements or
7 machinery, or in the business of selling and retailing industrial and construction equipment and
8 repair parts for industrial and construction equipment, or in the business of selling and retailing
9 office furniture, equipment, and supplies and repair parts for office furniture, equipment, and
10 supplies, or in the business of selling and retailing automobiles, trucks, ~~or motorcycles, boats,~~
11 personal watercraft, all-terrain vehicles, or snowmobiles or repair parts for automobiles, trucks,
12 ~~or motorcycles, boats, personal watercraft, all-terrain vehicles, or snowmobiles~~ enters into a
13 written contract evidenced by franchised agreement, sales agreement, dealer agreement, or
14 security agreement or other form of agreement or arrangement of like effect, the term, contract,
15 as used in §§ 37-5-5 to 37-5-9, inclusive, means any of the foregoing and their successors. If
16 such person, firm, or corporation, or their successors maintains a stock of parts or complete or

1 whole machines, or attachments with any wholesaler, manufacturer, or distributor of farm
2 implements or machinery or repair parts therefor, or industrial and construction equipment or
3 repair parts therefor, or office furniture, equipment, and supplies or repair parts therefor, or
4 automobiles~~or~~, trucks, motorcycles, boats, personal watercraft, all-terrain vehicles, or
5 snowmobiles, or repair parts therefor, and either the wholesaler, manufacturer, or distributor,
6 or their successors, or the retailer, or successor, desires to cancel or discontinue the contract,
7 such wholesaler, manufacturer, or distributor, or successor, shall pay to the retailer, or successor,
8 unless the retailer, or successor, should desire to keep the merchandise, a sum equal to one
9 hundred percent of the net cost of all current unused complete farm implements, machinery and
10 attachments, industrial and construction equipment and attachments, office furniture, equipment,
11 and supplies, and attachments, and automobiles~~and~~, trucks, motorcycles, boats, personal
12 watercraft, all-terrain vehicles, and snowmobiles, including transportation charges which have
13 been paid by the retailer and eighty-five percent of the current net prices on repair parts,
14 including superseded parts, listed in current price list or catalog which parts had previously been
15 purchased from the wholesaler, manufacturer, or distributor, or predecessor, and held by the
16 retailer on the date of the cancellation or discontinuance of the contract. The wholesaler,
17 manufacturer, or distributor, or successor, shall also pay the retailer a sum equal to five percent
18 of the current net price of all parts returned for the handling, packing and loading of the parts
19 back to the wholesaler, manufacturer, or distributor. Upon the payment of the sum equal to one
20 hundred percent of the net cost of the farm implements, machinery and attachments, industrial
21 and construction equipment and attachments, office furniture, equipment, and supplies, and
22 attachments, and automobiles~~and~~, trucks, motorcycles, boats, personal watercraft, all-terrain
23 vehicles, and snowmobiles, plus transportation charges and eighty-five percent of the current net
24 prices on repair parts, plus five percent handling and loading costs on repair parts only, plus
25 freight charges which have been paid by the retailer, or automobiles~~or~~, trucks, motorcycles,

1 boats, personal watercraft, all-terrain vehicles, or snowmobiles, plus freight charges, or repair
2 parts therefor, plus five percent handling and loading costs on repair parts only, the title to the
3 farm implements, farm machinery, industrial and construction equipment, office furniture,
4 equipment, and supplies, and repair parts, or automobiles, ~~or trucks,~~ motorcycles, boats, personal
5 watercraft, all-terrain vehicles, or snowmobiles, or parts therefor, shall pass to the manufacturer,
6 wholesaler, or distributor making the payment, and the manufacturer, wholesaler, or distributor,
7 is entitled to the possession of the farm implements, industrial and construction equipment, office
8 furniture, equipment, and supplies, or automobiles ~~or,~~ trucks, motorcycles, boats, personal
9 watercraft, all-terrain vehicles, or snowmobiles, or repair parts therefor.

10 Section 2. That § 37-5-7 be amended to read as follows:

11 37-5-7. The prices of farm implements, machinery, and repair parts therefor, and of industrial
12 and construction equipment and repair parts therefor, and of office furniture, equipment, and
13 supplies and repair parts therefor, and of automobiles, trucks, motorcycles, boats, personal
14 watercraft, all-terrain vehicles, or snowmobiles, and repair parts therefor, required to be paid to
15 any retail dealer as provided in § 37-5-5, shall be determined by taking one hundred percent of
16 the net cost on farm implements, machinery, and attachments, industrial and construction
17 equipment, and attachments, office furniture, equipment, and supplies, and attachments,
18 automobiles ~~and,~~ trucks, ~~and~~ motorcycles, boats, personal watercraft, all-terrain vehicles, and
19 snowmobiles, and eighty-five percent of the current net price of repair parts therefor as shown
20 upon the manufacturer's, wholesaler's, or distributor's price lists or catalogues in effect at the
21 time the contract is canceled or discontinued. For purposes of §§ 37-5-5 to 37-5-9, inclusive, if
22 any retailer, of farm implements or machinery or repair parts therefor, has actual proof of
23 purchase of any repair parts or other merchandise from any manufacturer, wholesaler, or
24 distributor, or its predecessor, the repair parts even though not currently listed in any price list
25 or catalog and all other merchandise, purchased within ten years of the dealership cancellation

or termination shall be repurchased at the original purchase price.

Section 3. That § 37-5-8 be amended to read as follows:

37-5-8. If any manufacturer, wholesaler, or distributor of farm machinery, farm implements, and repair parts for farm machinery, and farm implements, or of industrial and construction equipment and repair parts for industrial and construction equipment, or of office furniture, equipment, and supplies and repair parts for office furniture, equipment, and supplies, or of automobiles, trucks, motorcycles, boats, personal watercraft, all-terrain vehicles, and snowmobiles, and repair parts therefor, or their successors, upon cancellation of a contract by either a retailer or a manufacturer, wholesaler, or distributor, or their successor, fails or refuses to make payment to the dealer as is required by § 37-5-5, or refuses to supply farm machinery, farm implements, and repair parts for farm machinery and farm implements, or industrial and construction equipment, and repair parts for industrial and construction equipment, or of office furniture, equipment, and supplies and repair parts for office furniture, equipment, and supplies, or automobiles ~~or~~, trucks, ~~or~~ motorcycles, boats, personal watercraft, all-terrain vehicles, or snowmobiles, or repair parts therefor, to any retailer of the products, who may have a retail sales contract dated after July 1, 1969, in the case of contracts covering farm machinery, implements and attachments or automobiles and trucks or after July 1, 1970, in the case of contracts covering industrial and construction equipment and attachments or after July 1, 1995, in the case of contracts covering office furniture, equipment, and supplies, or after July 1, 1973, in the case of contracts covering motorcycles, or after July 1, 2000, in the case of contracts covering boats, personal watercraft, all-terrain vehicles, or snowmobiles, or a contract with no expiration date or a continuing contract in force or effect on July 1, 1969, in the case of contracts covering farm machinery, implements and attachments or automobiles and trucks or in force and effect on July 1, 1970, in the case of contracts covering industrial and construction equipment and attachments, or in force and effect on July 1, 1995, in the case of contracts covering office

1 furniture, equipment, and supplies, or in force and effect on July 1, 1973, in the case of contracts
2 covering motorcycles, or after July 1, 2000, in the case of contracts covering boats, personal
3 watercraft, all-terrain vehicles, or snowmobiles, with the manufacturer, wholesaler, or
4 distributor, the manufacturer, wholesaler, or distributor, or their successor, is liable in a civil
5 action to be brought by the retailer for one hundred percent of the net cost of the farm
6 implements, machinery and attachments, industrial and construction equipment and attachments,
7 office furniture, equipment, and supplies and attachments, automobiles and trucks, and
8 motorcycles, or after July 1, 2000, in the case of contracts covering boats, personal watercraft,
9 all-terrain vehicles, or snowmobiles, plus transportation charges which have been paid by the
10 retailer and eighty-five percent of the current net price of repair parts, plus five percent for
11 handling and loading plus freight charges which have been paid by the retailer.

12 Section 4. That § 37-5-9 be amended to read as follows:

13 37-5-9. In the event of the death of the retail dealer or majority stockholder in a corporation
14 operating a retail dealership in the business of selling and retailing farm implements or repair
15 parts for farm implements, or in the business of selling industrial and construction equipment or
16 repair parts therefor, or in the business of selling and retailing office furniture, equipment, and
17 supplies or repair parts therefor, or in the business of selling and retailing automobiles ~~or,~~ trucks
18 ~~or,~~ motorcycles, boats, personal watercraft, all-terrain vehicles, or snowmobiles, or repair parts
19 therefor, the wholesaler, distributor, or manufacturer who supplied the merchandise, or its
20 successor, shall repurchase from the heir or heirs of the retail dealer or majority stockholder the
21 merchandise at a sum equal to one hundred percent of the net cost of all current unused complete
22 farm implements, machinery and attachments, industrial and construction equipment and
23 attachments, office furniture, equipment, and supplies and attachments, and automobiles ~~and,~~
24 trucks, ~~and~~ motorcycles, boats, personal watercraft, all-terrain vehicles, and snowmobiles,
25 including transportation charges which have been paid by the retailer, and eighty-five percent of

1 the current net prices on repair parts, including superseded parts, listed in current price lists or
2 catalogues, plus a sum equal to five percent of the current net price of all parts returned for
3 handling, packing, and loading of the parts, unless the heir or heirs agree to continue to operate
4 the retail dealership. If the heir or heirs do not agree to continue to operate the retail dealership,
5 it is deemed a cancellation or discontinuance of contract by the retailer under the provisions of
6 § 37-5-5, and as such the heir or heirs may exercise any rights and privileges under §§ 37-5-5
7 to 37-5-9, inclusive.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 143

3 1/20/00 Referred to Judiciary.

4 1/26/00 House of Representatives Referred to Commerce.

5 2/3/00 Scheduled for Committee hearing on this date.

6 2/3/00 Commerce Do Pass, Passed, AYES 12, NAYS 0. H.J. 403

7 2/4/00 House of Representatives Deferred to another day. H.J. 433

8 2/7/00 House of Representatives Do Pass, Passed, AYES 65, NAYS 1. H.J. 459

9 2/8/00 First read in Senate and referred to Transportation. S.J. 360

10 2/15/00 Scheduled for Committee hearing on this date.

11 2/15/00 Transportation Do Pass Amended, Passed, AYES 6, NAYS 0. S.J. 491

12 2/15/00 Transportation Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

249D0619

HOUSE TAXATION COMMITTEE ENGROSSED NO. **HB1213** - 2/9/00

Introduced by: Representatives McNenny, Brown (Jarvis), Chicoine, Koskan, and Waltman and
Senators Symens, Brown (Arnold), Flowers, Vitter, and Whiting

1 FOR AN ACT ENTITLED, An Act to provide for an appeal of valuation decisions of the
2 secretary of revenue and for the recovery of certain expenses.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 Any person, firm, corporation, public or private, taxing district, or state department
7 interested, may appeal from the decision of the secretary of revenue in calculating a factor for
8 agricultural and nonagricultural valuations pursuant to § 10-13-37.1. The appeal may be made
9 to the office of hearing examiners or the circuit court in the manner prescribed in chapter 10-11
10 for taking appeals from decisions of the county board of equalization.

11 Section 2. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
12 follows:

13 Any appeal made pursuant to section 1 of this Act does not prevent the application of the
14 factor calculated by the secretary of revenue pursuant to § 10-13-37.1 pending exhaustion of all
15 appeal rights of the parties to the appeal. If the factor calculated by the secretary of revenue is
16 revised on appeal, appropriate relief shall be provided for that class of property affected in the

1 next budget cycle following the final decision of such appeal.

2 Section 3. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
3 follows:

4 The circuit court may award disbursements, including reasonable attorneys' fees, in an action
5 brought pursuant to section 1 of this Act by any appellant if the appellant does not prevail in its
6 appeal of any factor calculated in § 10-13-37.1.

7 Section 4. That chapter 10-13 be amended by adding thereto a NEW SECTION to read as
8 follows:

9 On motion, the supreme court may award reasonable attorneys' fees in an action brought to
10 the supreme court pursuant to this Act against any appellant relative to a factor calculated in
11 § 10-13-37.1, if the appellant does not prevail in its appeal. The motion shall be accompanied by
12 counsel's verified itemized statement of costs incurred and legal services rendered.

1 **BILL HISTORY**

2 1/19/00 First read in House and referred to committee assignment waived. H.J. 144

3 1/20/00 Referred to Judiciary.

4 1/26/00 House of Representatives Referred to Taxation. H.J. 246

5 2/3/00 Scheduled for Committee hearing on this date.

6 2/8/00 Scheduled for Committee hearing on this date.

7 2/8/00 Taxation Do Pass Amended, Passed, AYES 10, NAYS 0. H.J. 501

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

257D0659

HOUSE LOCAL GOVERNMENT COMMITTEE

ENGROSSED NO. **HB1237** - 2/4/00

Introduced by: Representatives Derby, Apa, Brown (Richard), Crisp, Diedrich (Larry),
Duenwald, Duniphan, Earley, Garnos, Jaspers, Klaudt, McNenny, Napoli,
Pummel, Richter, Sutton (Daniel), Wetz, Wilson, Wudel, and Young and
Senators Dunn (Jim), Bogue, Ham, Hutmacher, Kleven, and Shoener

1 FOR AN ACT ENTITLED, An Act to authorize additional licenses to sell alcoholic beverages
2 in certain convention facilities in certain municipalities.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That chapter 35-4 be amended by adding thereto a NEW SECTION to read as
5 follows:

6 In addition to the licenses provided by §§ 35-4-11 and 35-4-11.2, any municipality that is
7 authorized by chapter 42-7B to allow legal games of chance may issue up to twelve additional
8 convention facility on-sale licenses to hotel-motel convention facilities. A hotel-motel convention
9 facility as used in this section is a facility that, in a bona fide manner, is used and kept open for
10 the hosting of large groups of guests for compensation which has at least fifty rooms which are
11 suitable lodging accommodations and convention facilities with seating for at least one hundred
12 fifty persons. In a locally designated historical district, in a municipality that is authorized to
13 conduct gaming by chapter 42-7B, any license created by this section shall be available to
14 buildings subject to rehabilitation and restored according to the U.S. Department of the Interior
15 standards for historic preservation projects codified in 36 C.F.R. 67 as of January 1, 1994. Such

- 1 a rehabilitation project shall have at least thirty rooms that are suitable lodging accommodations.

1 **BILL HISTORY**

2 1/21/00 First read in House and referred to Local Government. H.J. 177

3 2/3/00 Scheduled for Committee hearing on this date.

4 2/3/00 Local Government Do Pass Amended, Passed, AYES 8, NAYS 5. H.J. 405

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

237D0773

HOUSE STATE AFFAIRS COMMITTEE

ENGROSSED NO. **HB1261** - 2/9/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Weber, Diedtrich (Elmer), Duenwald, Monroe, Sebert, and Waltman and Senators Lawler, Dunn (Rebecca), Flowers, Lange, Madden, Reedy, Symens, and Vitter

1 FOR AN ACT ENTITLED, An Act to permit schools to display the Ten Commandments.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. An object or document containing the words of the Ten Commandments may be
4 displayed in any public school classroom, public school building, or at any public school event,
5 along with other objects and documents of cultural, legal, or historical significance that have
6 formed and influenced the legal and governmental systems of the United States and the State of
7 South Dakota. Such display of an object or document containing the words of the Ten
8 Commandments:

9 (1) Shall be in the same manner and appearance generally as other objects and documents
10 displayed; and

11 (2) May not be presented or displayed in any fashion that results in calling attention to it
12 apart from the other displayed objects and documents.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 195

3 1/25/00 Referred to State Affairs.

4 2/9/00 Scheduled for Committee hearing on this date.

5 2/9/00 State Affairs Do Pass Amended, Passed, AYES 0, NAYS 0.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

337D0145

SENATE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **HB1280** - 2/15/00

Introduced by: Representatives Putnam, Broderick, Michels, and Wudel and Senators Albers, Bogue, Drake, Frederick, and Moore

1 FOR AN ACT ENTITLED, An Act to increase the penalty for certain violations regarding vital
2 records and the disposition of dead bodies.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 34-25-57 be amended to read as follows:

5 34-25-57. ~~Any~~ No person, officer, agent, or employee of any other person or of any
6 corporation or partnership ~~who shall~~ may:

7 (1) Inter, cremate, or otherwise finally dispose of a dead body of a human being or permit
8 the same to be done or ~~shall~~ remove ~~said~~ the body from the state without authority
9 of a burial or removal permit;

10 (2) Refuse or fail to furnish ~~correctly~~ any information in ~~his~~ such person's possession or
11 ~~shall~~ furnish false information affecting any certificate or record required by this
12 chapter;

13 (3) Intentionally falsify any certificate of birth, death, or burial or removal permit or any
14 record required by this chapter;

15 (4) Being required by this chapter to fill out a certificate of birth or death and file the
16 ~~same~~ certificate with the local registrar or deliver it upon request to any person

1 charged with the duty of filing the ~~same shall~~ certificate, fail, neglect, or refuse to
2 perform;

3 (5) Being a local registrar or deputy registrar, fail, neglect, or refuse to perform ~~his~~ the
4 duty as required by this chapter or by the rules ~~and regulations~~ adopted by the
5 secretary of health or by the instructions and directions of the department;

6 ~~is guilty of a Class 2 misdemeanor~~ A violation of this section is a Class 1 misdemeanor.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 199

3 1/25/00 Referred to Health and Human Services.

4 2/4/00 Scheduled for Committee hearing on this date.

5 2/4/00 Health and Human Services Do Pass, Passed, AYES 11, NAYS 0. H.J. 413

6 2/4/00 Health and Human Services Place on Consent Calendar.

7 2/7/00 House of Representatives Do Pass, Passed, AYES 64, NAYS 1. H.J. 440

8 2/8/00 First read in Senate and referred to Health and Human Services. S.J. 360

9 2/14/00 Scheduled for Committee hearing on this date.

10 2/14/00 Health and Human Services Do Pass Amended, Passed, AYES 4, NAYS 0. S.J. 470

11 2/14/00 Health and Human Services Place on Consent Calendar.

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

484D0646

HOUSE HEALTH AND HUMAN SERVICES COMMITTEE ENGROSSED NO. **HB1282** - 2/8/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Representatives Klaudt, Duenwald, Fryslie, Hunt, Koskan, Sebert, Wetz, and Wilson and Senators Bogue, Benson, Kleven, Lawler, Madden, and Vitter

- 1 FOR AN ACT ENTITLED, An Act to prohibit persons other than physicians from performing
2 or assisting at certain medical tasks for the purpose of performing or inducing abortions.
3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:
4 Section 1. The performance of an abortion may not be delegated to any person not licensed
5 under chapter 36-4 and may not be part of a practice or collaborative agreement with a person
6 not licensed under chapter 36-4.

1 **BILL HISTORY**

2 1/24/00 First read in House and referred to committee assignment waived. H.J. 199

3 1/25/00 Referred to Health and Human Services.

4 2/7/00 Health and Human Services Hog Housed.

5 2/7/00 Scheduled for Committee hearing on this date.

6 2/7/00 Health and Human Services Do Pass Amended, Passed, AYES 10, NAYS 2. H.J. 450

State of South Dakota

SEVENTY-FIFTH SESSION LEGISLATIVE ASSEMBLY, 2000

813D0287

HOUSE ENGROSSED NO. **SB59** - 2/16/00

This bill has been extensively amended (hoghoused) and may no longer be consistent with the original intention of the sponsors.

Introduced by: Senators Albers, Madden, and Vitter and Representatives Engbrecht and Hennies

1 FOR AN ACT ENTITLED, An Act to clarify certain provisions related to the filing of student
2 birth certificates.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 13-27-3.1 be amended to read as follows:

5 13-27-3.1. Any person who is required pursuant to § 13-27-1 to cause any child to attend
6 any public or nonpublic school or alternative instruction program pursuant to § 13-27-3 in this
7 state shall, either at the time of enrollment in any school in this state or upon being excused from
8 school attendance pursuant to § 13-27-3 or within thirty days of initial enrollment or excuse,
9 provide the public or nonpublic school or the alternative instruction program with a certified
10 copy of ~~such~~ the child's birth certificate or affidavit in lieu of birth certificate as issued by the
11 Department of Health in such cases where the original birth certificate is deemed unattainable.
12 Any parent or guardian who requests an excuse for his or her child pursuant to § 13-27-3, shall
13 with the initial request for excuse, provide a certified copy of the child's birth certificate or an
14 affidavit notarized or witnessed by two or more witnesses, swearing or affirming that the child
15 identified on the request for excuse is the same person appearing on the child's certified birth
16 certificate. A violation of this section is a Class 2 misdemeanor.

1 Section 2. That § 13-27-3.2 be amended to read as follows:

2 13-27-3.2. Any copy of any certified birth certificate provided pursuant to § 13-27-3.1 shall
3 be maintained by the public or nonpublic school or alternative instruction program and shall
4 ~~become~~ be a part of the child's permanent cumulative school record.

5 Section 3. That § 13-27-3.3 be amended to read as follows:

6 13-27-3.3. The superintendent of any public or nonpublic school or any person who provides
7 alternative instruction in this state who maintains a child's permanent cumulative school record
8 shall ~~regularly within thirty days of enrollment~~ report to the ~~state's attorney~~ school board of the
9 district the name and address of any child ~~for whom the school~~ whose permanent cumulative
10 record does not have a copy of a certified birth certificate in violation of § 13-27-3.1 or 13-27-
11 3.2. If the violation is not corrected within thirty days after the report, the school board of the
12 district shall notify the state's attorney.

1 **BILL HISTORY**

2 1/15/00 First read in Senate and referred to Education. S.J. 57

3 1/20/00 Scheduled for Committee hearing on this date.

4 1/20/00 Education Deferred to another day, AYES 4, NAYS 2.

5 1/25/00 Education Hog Housed.

6 1/25/00 Scheduled for Committee hearing on this date.

7 1/25/00 Education Do Pass Amended, Passed, AYES 7, NAYS 0. S.J. 181

8 1/27/00 Senate Do Pass Amended, Passed, AYES 32, NAYS 3. S.J. 227

9 1/28/00 First read in House and referred to Education. H.J. 293

10 2/10/00 Scheduled for Committee hearing on this date.

11 2/10/00 Education Do Pass, Passed, AYES 8, NAYS 3. H.J. 556

12 2/11/00 House of Representatives Deferred to another day. H.J. 622

13 2/14/00 House of Representatives Deferred to another day. H.J. 650

14 2/15/00 Motion to Amend, Passed. H.J. 672

15 2/15/00 House of Representatives Do Pass Amended, Passed, AYES 56, NAYS 10. H.J. 673

State of South Dakota

SEVENTY-FIFTH SESSION
LEGISLATIVE ASSEMBLY, 2000

256D0148

HOUSE COMMERCE COMMITTEE ENGROSSED NO. **SB97** - 2/11/00

Introduced by: Senators Halverson, Brown (Arnold), Dennert, Lange, Lawler, Madden, Reedy, Rounds, and Symens and Representatives Diedrich (Larry), Apa, Clark, Engbrecht, Hennies, Slaughter, Sutton (Daniel), and Volesky

1 FOR AN ACT ENTITLED, An Act to revise the definition of indigent by design for purposes
2 of county poor relief.

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 Section 1. That § 28-13-27 be amended to read as follows:

5 28-13-27. Terms used in this chapter mean:

- 6 (1) "Actual cost of hospitalization," the actual cost to a hospital of providing hospital
7 services to a medically indigent person, determined by applying the ratios of costs to
8 charges appearing on the statement of costs required in § 28-13-28 to charges at the
9 hospital in effect at the time the hospital services are provided;
- 10 (2) "Emergency hospital services," treatment in the most appropriate hospital available
11 to meet the emergency need. The physician, physician assistant, or nurse practitioner
12 on duty or on call at the hospital must determine whether the individual requires
13 emergency hospital care. The need for emergency hospital care is established if the
14 absence of emergency care is expected to result in death, additional serious jeopardy
15 to the individual's health, serious impairment to the individual's bodily functions, or

serious dysfunction of any bodily organ or part. The term does not include care for which treatment is available and routinely provided in a clinic or physician's office;

(3) "Hospital," any hospital licensed as such by the state in which it is located;

(4) "Household," the patient, minor children of the patient living with the patient, and anyone else living with the patient to whom the patient has the legal right to look for support;

(5) "Nonemergency care," hospitalization which is medically necessary and recommended by a physician licensed under chapter 36-4 but does not require immediate care or attention;

(6) "Indigent by design," an individual who meets any one of the following criteria:

(a) Is able to work but has chosen not to work;

(b) Is a student at a postsecondary institution who has chosen not to purchase health insurance;

(c) Has failed to purchase or elect major medical health insurance ~~which was or~~ health benefits made available through ~~the individual's employer~~ an employer-based health benefit plan although the person was financially able, pursuant to section 2 of this Act, to purchase or elect the insurance or health benefits;

(d) Has failed to purchase available major medical health insurance although the individual was insurable and was financially able, pursuant to section 2 of this Act, to purchase the insurance. For purposes of this subdivision, an individual is presumed insurable unless the individual can produce sufficient evidence to show that the individual was declined major medical insurance by an insurance company and the individual did not qualify for any guarantees of major medical insurance available through any legal or contractual right that was not exercised; or

1 ~~(d)~~(e) Has transferred resources for purposes of establishing eligibility for medical
2 assistance available under the provisions of this chapter. The lookback period
3 for making this determination includes the thirty-six month period immediately
4 prior to the onset of the individual's illness and continues through the period
5 of time for which the individual is requesting services.

6 Section 2. That chapter 28-13 be amended by adding thereto a NEW SECTION to read as
7 follows:

8 For purposes of subsections 28-13-27(6)(c) and (d), when determining whether the
9 household was financially able to purchase health insurance which would have covered the
10 medical costs the county is being requested to pay, the county shall use the following
11 methodology:

- 12 (1) Determine the household's income and resources according to §§ 28-13-32.7 and
13 28-13-32.8;
- 14 (2) Determine the household's contributions for taxes, social security, medicare, and
15 payments to other standard retirement programs according to subdivision
16 28-13-32.9(1);
- 17 (3) Except for the medical expenses for which the household is requesting assistance,
18 determine the household's expenses according to subdivision 28-13-32.9(2);
- 19 (4) Determine the amount of the household's discretionary income by subtracting the sum
20 of the household's contributions and expenses from the household's income. Divide
21 the amount of the household's discretionary income in half. The result added to the
22 household's adjusted resources determined according to § 28-13-32.8 equals the
23 household's discretionary income that was available to purchase health insurance;
- 24 (5) Subtract the amount of the monthly health insurance premium that was available to
25 the household if known or, if unknown, an estimate of the premium the household

1 could be expected to incur. For purposes of this subdivision, the county shall establish
2 such estimate either by obtaining premium estimates from two major medical
3 insurance carriers doing business in the state or by using an estimate based on the rate
4 data provided to the county by the Division of Insurance of the Department of
5 Commerce and Regulation. The policy used shall have a benefit design that equals or
6 exceeds the benefit design of the basic benefit plan as developed by the Health Benefit
7 Plan Committee pursuant to § 58-18B-32. If the result is a negative number, the
8 health insurance was not affordable. If the result is a positive number, health insurance
9 was affordable and the individual is considered to be indigent by design.

1 **BILL HISTORY**

2 1/18/00 First read in Senate and referred to State Affairs. S.J. 74

3 1/24/00 Scheduled for Committee hearing on this date.

4 1/24/00 State Affairs Do Pass Amended, Passed, AYES 8, NAYS 0. S.J. 162

5 1/26/00 Senate Do Pass Amended, Passed, AYES 34, NAYS 0. S.J. 206

6 1/27/00 First read in House and referred to Commerce. H.J. 277

7 2/10/00 Scheduled for Committee hearing on this date.

8 2/10/00 Commerce Do Pass Amended, Passed, AYES 11, NAYS 0. H.J. 556